

SENATE BILL 2256

By Cooper J

AN ACT to amend Tennessee Code Annotated, Title 50, to establish when a drug test for an employee covered by workers' compensation insurance is appropriate, and to insure the results of a drug test do not adversely affect the payment of a provider's claim for emergency and subsequent stabilization services.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 50-6-122, is hereby amended by adding the following subsection (d):

(d)

(1) A drug test for an employee covered by workers' compensation insurance shall only be performed if the treating physician determines such a drug test is medically necessary to protect the employee, the employee consents to the drug test or the employee has signed a prior written consent permitting such a drug test.

(2) Unless the employee demonstrates the existence of no workers' compensation coverage under Tennessee Code Annotated, Section 50-6-110(b) and notwithstanding Tennessee Code Annotated, Section 50-6-110(c), an employer or an employer's insurer shall not deny a provider's claim for payment

of emergency services solely because of a positive drug test on the employee covered by workers' compensation insurance, when the claim is for payment of health care services provided either:

- (A) During an emergency medical condition evaluation;
- (B) During the process of stabilization of the employee;
- (C) During admission of the employee;
- (D) In a physician's office during the course of evaluation or treatment of an emergency medical condition; or
- (E) Medically necessary follow-up for any of the above.

(3) The following definitions shall apply to this subsection:

(A) "Emergency medical condition" means a medical condition that manifests itself by symptoms of sufficient severity, including severe pain, that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to potentially result in:

- (i) Placing the person's health in serious jeopardy;
- (ii) Serious impairment to bodily functions; or
- (iii) Serious dysfunction of any bodily organ or part.

(B) "Emergency services" means health care items and services furnished in a hospital, other health care facility or physician's office which are required to determine, evaluate and/or treat an emergency medical condition, until the condition is stabilized, as directed or ordered by a physician or directed by physician or hospital protocol.

(C) "Medically necessary" means such treatment or follow-up ordered by a physician, consistent with the symptoms or diagnosis and

treatment of the injury and appropriate with regard to applicable standards of good medical practice.

(D) "Provider" means a physician, hospital or other person which is licensed, accredited or certified to perform specified health care services pursuant to Title 63, Chapter 6 or 9, or Title 68.

(E) "Stabilization" means with respect to an emergency medical condition, that no material deterioration is likely, within a reasonable medical probability, to result from or occur during the transfer of the individual from a facility.

(4) Except for payment for required medical care, nothing in this section requires payment for any services or disability payments.

SECTION 2. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.